

AMENDED IN ASSEMBLY AUGUST 8, 2008

AMENDED IN ASSEMBLY JUNE 18, 2008

AMENDED IN SENATE APRIL 10, 2008

SENATE BILL

No. 1472

Introduced by Senator Ashburn

February 21, 2008

An act to amend, ~~add, and repeal~~ *repeal, and add* Sections 18546, 18990, 18992, and 19889.3 of, and to add Section 20037.13 to, the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1472, as amended, Ashburn. Public employment.

Existing law establishes a state civil service system that includes career executive assignments. Career executive assignments are appointments to a high administrative and policy influencing position within the state civil service in which the incumbent's primary responsibility is the managing of a major function or the rendering of management advice to top-level administrative authority.

This bill would, until January 1, 2013, expand the category of persons eligible for a career executive assignment to include those persons who previously had permanent status in the civil service and those who, for 2 or more consecutive years, were either employed by the Legislature or held nonelected exempt positions in the executive branch, as specified. *The bill would require a state entity that employs a person in a career executive assignment to notify the Controller of this person's employment status and would require the Controller to forward this information to the State Personnel Board.*

Existing law provides that those persons who, for 2 or more consecutive years, were either employed by the Legislature or held nonelected exempt positions in the executive branch, and who resigned or were released from service, are eligible to apply for promotional civil service examinations, including examinations for career executive assignments, for which they meet the minimum qualifications as prescribed by the class specification, for one year following their resignation or release, as specified. ~~The~~

The bill would provide the means for calculating the final compensation of certain people affected by those provisions for the purposes of any pension or benefits with respect to benefits based on service with the state, as specified.

This bill would, until January 1, 2013, eliminate that one year time limit for eligibility for examinations for career executive assignments for those persons.

The bill would also require the State Personnel Board to report to the Legislature by January 1, 2012, a summary of career executive assignment hires made of those persons as well as persons who previously had permanent status in the civil service.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 18546 of the Government Code is
2 amended to read:
3 18546. (a) “Career executive” means an employee appointed
4 from an employment list established for the express purpose of
5 providing a list of persons with permanent status or who previously
6 had permanent status in the civil service , or those persons who
7 either, for two or more consecutive years, have been employed by
8 the Legislature, as described in Section 18990, or have held
9 nonelected exempt positions in the executive branch, as described
10 in Section 18992, who are available for career executive
11 assignments, in which selection, classification, salary, tenure, and
12 other conditions of employment may be varied from those
13 prevailing under Chapters 3 (commencing with Section 18800)
14 through 7 (commencing with Section 19570) for other employees
15 in the state civil service.

1 (b) This section shall remain in effect only until January 1, 2013,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2013, deletes or extends that date.

4 SEC. 2. Section 18546 is added to the Government Code, to
5 read:

6 18546. (a) “Career executive” means an employee appointed
7 from an employment list established for the express purpose of
8 providing a list of persons with permanent status in the civil service
9 who are available for career executive assignments, in which
10 selection, classification, salary, tenure, and other conditions of
11 employment may be varied from those prevailing under Chapter
12 3 (commencing with Section 18800) to Chapter 7 (commencing
13 with Section 19570), inclusive, for other employees in the state
14 civil service.

15 (b) This section shall become operative on January 1, 2013.

16 SEC. 3. Section 18990 of the Government Code is amended
17 to read:

18 18990. (a) Notwithstanding any other provision of law or rule,
19 persons employed by the Legislature for two or more consecutive
20 years shall be eligible to apply for promotional civil service
21 examinations, including examinations for career executive
22 assignments, for which they meet the minimum qualifications as
23 prescribed by the class specification. Persons receiving passing
24 scores shall have their names placed on promotional lists resulting
25 from these examinations or otherwise gain eligibility for
26 appointment. In evaluating minimum qualifications, related
27 legislative experience shall be considered state civil service
28 experience in a class deemed comparable by the State Personnel
29 Board, based on the duties and responsibilities assigned.

30 (b) In cases where promotional examinations are given by more
31 than one department for the same classification, the employee shall
32 select one department in which to compete. Once this selection is
33 made, it cannot be changed for the duration of the promotional list
34 established from the examination in which the employee
35 participated. Employees may transfer list eligibility between
36 departments in the same manner as provided for civil service
37 employees.

38 (c) Employees who meet the requirements of this section, are
39 employed by the Legislature, and who resign or are released from
40 service, shall be eligible to take promotional civil service

1 examinations for one year following their resignation or release
2 in accordance with subdivisions (a) and (b).

3 (d) Employees who meet the requirements of this section, are
4 employed by the Legislature, and who resign or are released from
5 service, shall be eligible to take examinations for career executive
6 assignments indefinitely following their resignation or release in
7 accordance with subdivisions (a) and (b).

8 (e) Employees who meet the requirements of this section, are
9 employed by the office of the Auditor General or the office of the
10 Legislative Analyst as of January 1, 1992, and who resign or are
11 released from service due to a force reduction of the Legislature
12 before January 1, 1994, shall be eligible to take promotional civil
13 service examinations, including career executive assignments, for
14 three years following their resignation or release in accordance
15 with subdivisions (a) and (b).

16 (f) An employee who establishes eligibility on a promotional
17 civil service list, either pursuant to subdivision (c) or ~~(d)~~ (e) or
18 prior to having resigned or having been released in a manner to
19 which subdivision (c) or ~~(d)~~ (e) would apply, shall maintain that
20 eligibility for the duration of that particular list.

21 (g) This section shall remain in effect only until January 1, 2013,
22 and as of that date is repealed, unless a later enacted statute, that
23 is enacted before January 1, 2013, deletes or extends that date.

24 SEC. 4. Section 18990 is added to the Government Code, to
25 read:

26 18990. (a) Notwithstanding any other provision of law or rule,
27 persons employed by the Legislature for two or more consecutive
28 years shall be eligible to apply for promotional civil service
29 examinations, including examinations for career executive
30 assignments, for which they meet the minimum qualifications as
31 prescribed by the class specification. Persons receiving passing
32 scores shall have their names placed on promotional lists resulting
33 from these examinations or otherwise gain eligibility for
34 appointment. In evaluating minimum qualifications, related
35 legislative experience shall be considered state civil service
36 experience in a class deemed comparable by the State Personnel
37 Board, based on the duties and responsibilities assigned.

38 (b) In cases where promotional examinations are given by more
39 than one department for the same classification, the employee shall
40 select one department in which to compete. Once this selection is

1 made, it cannot be changed for the duration of the promotional list
2 established from the examination in which the employee
3 participated. Employees may transfer list eligibility between
4 departments in the same manner as provided for civil service
5 employees.

6 (c) Employees who meet the requirements of this section, are
7 employed by the Legislature, and who resign or are released from
8 service, shall be eligible to take promotional civil service
9 examinations, including examinations for career executive
10 assignments, for one year following their resignation or release in
11 accordance with subdivisions (a) and (b).

12 (d) Employees who meet the requirements of this section, are
13 employed by the office of the Auditor General or the office of the
14 Legislative Analyst as of January 1, 1992, and who resign or are
15 released from service due to a force reduction of the Legislature
16 before January 1, 1994, shall be eligible to take promotional civil
17 service examinations, including career executive assignments, for
18 three years following their resignation or release in accordance
19 with subdivisions (a) and (b).

20 (e) An employee who establishes eligibility on a promotional
21 civil service list, either pursuant to subdivision (c) or (d) or prior
22 to having resigned or having been released in a manner to which
23 subdivision (c) or (d) would apply, shall maintain that eligibility
24 for the duration of that particular list.

25 (f) This section shall become operative on January 1, 2013.

26 SEC. 5. Section 18992 of the Government Code is amended
27 to read:

28 18992. (a) Notwithstanding any other provision of law or rule,
29 persons holding, for two or more consecutive years, nonelected
30 exempt positions in the executive branch of government as defined
31 in subdivisions (c), (e), (f), (g), (i), and (m) of Section 4 of Article
32 VII of the Constitution and excluding those positions for which
33 the salaries are set by statute, shall be eligible to apply for
34 promotional civil service examinations, including, but not limited
35 to, examinations for career executive assignments for which they
36 meet the minimum qualifications as prescribed by the class
37 specification. Persons receiving passing scores shall have their
38 names placed on promotional lists resulting from these
39 examinations or otherwise gain eligibility for appointment. In
40 evaluating minimum qualifications, related exempt experience

1 shall be considered state civil service experience in a class deemed
2 comparable by the State Personnel Board, based on the duties and
3 responsibilities assigned.

4 (b) In cases where promotional examinations are given by more
5 than one department for the same classification, the employee shall
6 select one department in which to compete. Once this selection is
7 made, it cannot be changed for the duration of the promotional list
8 established from the examination in which the employee
9 participated. Employees may transfer list eligibility between
10 departments in the same manner as provided for civil service
11 employees.

12 (c) Employees who meet the requirements of this section and
13 who resign or are released from exempt employment of the
14 executive branch of government shall be eligible to take
15 promotional civil service examinations for one year following their
16 resignation or release in accordance with subdivisions (a) and (b).

17 (d) Employees who meet the requirements of this section and
18 who resign or are released from exempt employment of the
19 executive branch of government shall be eligible to take
20 examinations for career executive assignments indefinitely
21 following their resignation or release in accordance with
22 subdivisions (a) and (b).

23 (e) An employee who establishes eligibility on a promotional
24 civil service list, either pursuant to subdivision (c) or prior to
25 having resigned or having been released in a manner to which
26 subdivision (c) would apply, shall maintain that eligibility for the
27 duration of that particular list.

28 (f) This section shall remain in effect only until January 1, 2013,
29 and as of that date is repealed, unless a later enacted statute, that
30 is enacted before January 1, 2013, deletes or extends that date.

31 SEC. 6. Section 18992 is added to the Government Code, to
32 read:

33 18992. (a) Notwithstanding any other provision of law or rule,
34 persons holding, for two or more consecutive years, nonelected
35 exempt positions in the executive branch of government as defined
36 in subdivisions (c), (e), (f), (g), (i), and (m) of Section 4 of Article
37 VII of the Constitution and excluding those positions for which
38 the salaries are set by statute, shall be eligible to apply for
39 promotional civil service examinations, including, but not limited
40 to, examinations for career executive assignments for which they

1 meet the minimum qualifications as prescribed by the class
2 specification. Persons receiving passing scores shall have their
3 names placed on promotional lists resulting from these
4 examinations or otherwise gain eligibility for appointment. In
5 evaluating minimum qualifications, related exempt experience
6 shall be considered state civil service experience in a class deemed
7 comparable by the State Personnel Board, based on the duties and
8 responsibilities assigned.

9 (b) In cases where promotional examinations are given by more
10 than one department for the same classification, the employee shall
11 select one department in which to compete. Once this selection is
12 made, it cannot be changed for the duration of the promotional list
13 established from the examination in which the employee
14 participated. Employees may transfer list eligibility between
15 departments in the same manner as provided for civil service
16 employees.

17 (c) Employees who meet the requirements of this section and
18 who resign or are released from exempt employment of the
19 executive branch of government shall be eligible to take
20 promotional civil service examinations, including examinations
21 for career executive assignments, for one year following their
22 resignation or release in accordance with subdivisions (a) and (b).

23 (d) An employee who establishes eligibility on a promotional
24 civil service list, either pursuant to subdivision (c) or prior to
25 having resigned or having been released in a manner to which
26 subdivision (c) would apply, shall maintain that eligibility for the
27 duration of that particular list.

28 (e) This section shall become operative on January 1, 2013.

29 SEC. 7. Section 19889.3 of the Government Code is amended
30 to read:

31 19889.3. (a) Eligibility for appointment to positions in the
32 career executive assignment category shall be established as a
33 result of competitive examination of the following persons who
34 meet such minimum qualifications as the State Personnel Board
35 may determine are requisite to the performance of high
36 administrative and policy influencing functions:

37 (1) Persons with permanent status, or who previously had
38 permanent status, in the civil service.

39 (2) Persons employed by the Legislature for two or more
40 consecutive years, as described in Section 18990.

1 (3) Persons holding, for two or more consecutive years,
2 nonelected exempt positions in the executive branch, as described
3 in Section 18992.

4 (b) No person employed in a career executive assignment shall
5 be deemed to acquire as a result of such service any rights to or
6 status in positions governed by the provisions of this part relating
7 to the civil service other than the category of career executive
8 assignment, except as provided by State Personnel Board rule.

9 (c) The State Personnel Board shall provide by rule that an
10 employee shall, if he or she so desires, at the termination of his or
11 her appointment to a career executive assignment, be reinstated to
12 a civil service position that is (1) not a career executive assignment
13 and (2) that is at least at the same salary level as the last position
14 that he or she held as a permanent or probationary employee. If
15 the employee has completed a minimum of five years of state
16 service, he or she may return to a position that is (1) at substantially
17 the same salary level as the last position in which he or she had
18 permanent or probationary status or (2) at a salary level that is at
19 least two steps lower than that of the career executive position
20 from which the employee is being terminated.

21 *(d) A state entity that employs a person described in subdivision*
22 *(a) in a career executive assignment shall notify the Controller of*
23 *this person's employment status and the Controller shall forward*
24 *this information to the board.*

25 ~~(d)~~

26 (e) For the purpose of this section, "employee" means a
27 permanent employee, or an employee serving under another
28 appointment who previously had permanent status and who, since
29 such permanent status, has had no break in the continuity of his
30 or her state service.

31 ~~(e)~~

32 (f) This section shall remain in effect only until January 1, 2013,
33 and as of that date is repealed, unless a later enacted statute, that
34 is enacted before January 1, 2013, deletes or extends that date.

35 SEC. 8. Section 19889.3 is added to the Government Code, to
36 read:

37 19889.3. (a) Eligibility for appointment to positions in the
38 career executive assignment category shall be established as a
39 result of competitive examination of persons with permanent status
40 in the civil service who meet such minimum qualifications as the

1 State Personnel Board may determine are requisite to the
2 performance of high administrative and policy influencing
3 functions.

4 (b) No person employed in a career executive assignment shall
5 be deemed to acquire as a result of such service any rights to or
6 status in positions governed by the provisions of this part relating
7 to the civil service other than the category of career executive
8 assignment, except as provided by State Personnel Board rule.

9 (c) The State Personnel Board shall provide by rule that an
10 employee shall, if he or she so desires, at the termination of his or
11 her appointment to a career executive assignment, be reinstated to
12 a civil service position that is (1) not a career executive assignment
13 and (2) that is at least at the same salary level as the last position
14 that he or she held as a permanent or probationary employee. If
15 the employee has completed a minimum of five years of state
16 service, he or she may return to a position that is (1) at substantially
17 the same salary level as the last position in which he or she had
18 permanent or probationary status or (2) at a salary level that is at
19 least two steps lower than that of the career executive position
20 from which the employee is being terminated.

21 (d) For the purpose of this section “employee” means a
22 permanent employee, or an employee serving under another
23 appointment who previously had permanent status and who, since
24 such permanent status, has had no break in the continuity of his
25 or her state service.

26 (e) This section shall become operative on January 1, 2013.

27 SEC. 9. Section 20037.13 is added to the Government Code,
28 to read:

29 20037.13. (a) Notwithstanding Sections 20035 and 20037, for
30 the purposes of determining any pension or benefit with respect
31 to benefits based on service with the state, “final compensation”
32 means the highest annual compensation that was earnable by the
33 state member during the consecutive 36-month period of
34 employment immediately preceding the effective date of his or
35 her retirement or the date of his or her last separation from state
36 service or during any other period of 36 consecutive months during
37 his or her membership in this system that the member designates
38 on the application for retirement.

39 (b) This section shall only apply to a member appointed to a
40 career executive assignment, as defined in Section 18546, who at

1 the time of the appointment did not have permanent status in the
2 civil service or was not eligible for a career executive assignment
3 pursuant to Section 18990 or 18992.

4 SEC. 10. The State Personnel Board shall report to the
5 Legislature by January 1, 2012, a summary of career executive
6 assignment hires made of the following persons:

7 (a) Persons who previously had permanent status in the civil
8 service.

9 (b) Persons employed by the Legislature for two or more
10 consecutive years, as described in Section 18990.

11 (c) Persons holding, for two or more consecutive years,
12 nonelected exempt positions in the executive branch, as described
13 in Section 18992.